NEW ORLEANS TIMES-PICAYUNE
New Orleans, Louisiana
September 21, 1960
September 20, 1960

CIGARETTE SUIT COUNSEL HEARD

Smoking, Cancer Relationship Involved

A federal court jury impaneled for the trial of a suit involving the relationship between cigarette smoking and cancer heard opening statements of counsel Tuesday.

Almost the entire second day of the trial was taken up with the selection of two alternate jurors who will participate in the deliberations only if regular members of the jury are unable to complete hearing the case.

The taking of testimony in the case in which Mrs. Victoria St. Pierre Lartigue, formerly a resident of Franklin, now of Houston, Tex., claims that her husband's fatal lung cancer was caused by his smoking of cigarettes is scheduled to begin at 10 a. m., Wednesday before Judge Herbert W. Christenberry.

Mrs. Lartigue is suing the Liggett and Meyers Tobacco Company and the R. J. Reynolds Tobacco Company.

CALLED CHAIN SMOKER

H. Alva Brumfield, Baton Rouge attorney, representing Mrs. Lartigue, charged in his opening statement that the two defendants killed her husband "not by running over him with one of their trucks, but causing his death just as effectively by the use of products manufactured and sold by them."

He told the jury that he hopes to prove that Frank J. Lartigue used Liggett and Meyers and R. J. Reynolds products for 41 years and smoked them excessively. The attorney described the deceased as a chain smoker who used more than two packages of cigarettes a day. He displayed to the jury packages of King Bee tobacco and Picayune cigarettes, products of Liggett and Meyers, and a package of Camels, a product of the Reynolds company. He said that Lartigue rolled his own cigarettes with the King Bee and also used Picayunes and Camels.

Lartigue died in July, 1955, at the age of 65, Brumfield said, in the Veterans Administration hospital in Houston where he went after being operated on for the cancer at the Ochsner Foundation hospital in New Orleans.

'CIGARETTE FIEND'

The plaintiff's attorney described him as "a cigarette fiend." Brumfield told the jury "the first thing he did in the morning was smoke a cigarette. He smoked all day, through the day and smoked every cigarette down to the very butt."

The attorney said that he will prove that the two companies had a responsibility to make their product wholesome, "to make their product in such a manner that they wouldn't kill people or cause them any harm."

He claimed that he will show by evidence that there are harmful tars in cigarettes which cause cancer and that the companies have never given any warning on their packages or in advertising that their products are unwholesome.

He outlined that he hopes to prove his case through a chain of statistical, biological, chemical, pathological, and clinical evidence.

HEALTH NEGLECT SEEN

Theodore Kindle of the New York law firm of Davis, Polk, Sunderland and Kindle, associated with the New Orleans firm of Chaffe, McCall, Phillips, Burke and Hopkins, representing R. J. Reynolds, told the jury that evidence of the defense will show that Lartigue's death was caused by his own neglect of his health.

The defendants claim, Kindle asserted, that Lartigue's death "was not caused by anything they did or did not do in any way, shape or form."

He alleged that the claim of the plaintiff is supported only by "suspicion, conjecture, and things of that character, no substantial evidence."

Kindle sharply criticized Brumfield's request that the jury bring in a verdict for the widow in the sum of $150,000, pointing out that the amount sought in the original suit was $779,500. He referred to this amount as "a dream." He asserted that he will produce evidence to show that while Lartigue was still alive he offered to settle with R. J. Reynolds for $750 for hospitalization expenses and $750 for loss of work.

'HAD TO GET OUT'

Discussing the factor of contributory negligence on the part of Lartigue, the defense attorney described him as a cigarette "fiend" as far back as 1899 when he was only nine years old. He pointed out that in 1899 the Liggett and Meyers firm was not in existence.

Kindle called Lartigue "a human chimney" and said that in a pre-trial deposition his widow testified that his smoking was so bad that she "had to get out of the house lots of times."

He described Lartigue as a very unhealthy man who had many diseases in his early life and "a prospect for most any type of disease."

Kindle told the jury that there is no basis for a monetary recovery based on anything which happened after July, 1955, the time of Lartigue's death. "Prior to that time," he claimed, "medical science had not reached the point where it could be said that smoking cigarettes could cause this condition."

CANCER CAUSE PUZZLE

The cause of cancer today, Kindle asserted, is still as much of a mystery as ever. He claimed that the defense will prove that Lartigue's death was not caused by any of the tobacco products.

Harry Kelleher, of the New Orleans firm of Lemle and Kelleher, representing Liggett and Meyers, told the jury that he adopted Kindle's opening statement but reminded them that the Liggett and Meyers firm was not established until 1911, 10 years after Lartigue started smoking.

He pointed out that until 1911 King Bee tobacco and Picayune cigarettes were manufactured by the W. R. Irby Company of New Orleans.

There is serious conflict in medical science as to what causes cancer, he said, "and I don't believe anyone can say specifically what causes cancer."

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